



Land Use and Zoning Meeting Minutes

August 30, 2010

STAFF:	David Radachy
DATE:	August 26, 2010
APPROVED BY:	<i>ju3</i>

The Land Use and Zoning Committee hereby finds and determines that all formal actions were taken in an open meeting and that all deliberations of the Land Use and Zoning Committee, which resulted in formal action, were taken in a meeting open to the general public, in full compliance with applicable legal requirements of Section 121.22 of the Ohio Revised Code.

The meeting was called to order at 6:30 p.m. by Chairman Terriaco.

Attendance was taken by sign in sheet. The following members were present: Messrs. Kenyon, Hullihen, Morse, Terriaco and Welch, and Mmes. Diak, Ross and Malec. Staff: David Radachy.

Mr. Terriaco asked for any comments from the public. No comments were made.

Mr. Terriaco asked Mr. Radachy to present the cases. There were nine cases on the agenda.

Perry Township – Text Amendment to Section 301.04, Addition of language for Outdoor Wood-fired Boilers.

Staff stated that a full summary was in their packet, but recommendations were not ready for the mail out. Recommendations are in tonight's hand out along with additional information from OEPA and an article from Medina County Department of Planning.

Staff explained that outdoor wood-fired boilers are boilers that use wood instead of gas or electricity. They are located outside and they are connected to the structure that they are heating by pipes under the ground.

Staff recommended that this text not be adopted in its current format. The Zoning Commission should rewrite the text with the following suggestions:

- Defining outdoor fired boiler, wood furnace and natural wood.
- Recommends that this use be a conditional use.
- This should be allowed on lots in the ER2 (two acre lots) and ER3 (three acre lots).
- Language that would require only natural wood to be burned, nothing that has been altered with paint or chemicals. This would include plywood, telephone poles or railroad ties.

Staff stated that they reviewed proposed language from Northfield Center Township in Summit County. In their text, they required the chimneys to be two feet above any structure within 300 feet. This could require chimneys to be 37 feet high. This would be similar to a wood burning fireplace chimney. Staff stated that the point of this type of regulation is to put the smoke high in the atmosphere away from the neighbors' windows. Currently, the Perry Zoning Commission proposed regulations that only ask for 12 foot high chimney and some of the manufacture's specs only have a six foot chimney.

The Committee was concerned about having a 37 foot high metal tube as a smoke stack. Staff stated they could use a masonry structure, but that would increase the costs. The Committee thought the

regulations made sense but would defeat the purpose of having an outdoor wood-fired boiler installed.

The Committee also asked about distance from the structure being heated. This would be distance from the owner's building. In other zoning codes, accessory structures like a shed have to be 20 feet from the main structure. Staff asked if the Committee wished to require a distance away from the building being heated in name of safety. The Committee debated this issue; there were concerns about effectiveness of the system the farther away from the structure. Members stated there should be manufacture's specs on this issue.

Staff stated that they were suggesting only ER2 and ER3 lots because the population density is smaller. These lots also could handle the 75 foot clearance. The Committee stated that the 75 foot clearance would take care of this issue. Staff stated that there could be an issue in the future if someone on a five acre lot installs an OWB. At this time, they would meet the 75 foot setback. If they decide to spilt the lot and not tell the Planning Commission staff they have an OWB, staff could unknowingly reduce the setbacks. This may force the zoning inspector to order the OWB removed. A variance may be needed or the Planning Commission Staff could turn the owner over to the Prosecutor for not supplying all the information. Staff stated, if the owner shows the OWB, then we can enforce the rule, but it can be easily overlooked by the owner and the surveyor.

Staff also stated that the Township could require these systems to be USEPA Phase 2 compliant. Northfield Center Township had similar language. Staff also stated that they spoke to the Building Department and they consider these to be heating systems and would require building permit.

Mr. Kenyon made a motion to recommend the text not be accepted in current format. It is recommended that the text be revised with all staff recommendation except the chimney height recommendation.

Ms. Diak seconded the motion.

All voted "Aye".

Motion passed.

Perry Township – Text Amendment to Section 401.03, Fences in the Commercial Districts

Staff stated that a full summary was in their packet. He went on to state that the section was accidentally removed when Perry Township revised their zoning resolution. The language is adding requirements for fences that face a right-of-way to be more decorative than utilitarian and have a shorter height of six feet. They are also placing restrictions of fence placement in the industrial zones.

Staff stated that split rail fences and walls of brick or stone are not listed permitted types. They also stated that fences are sometimes used as landscaping, especially split rail. Staff question of if these regulations forbid this practice. Staff also stated that there is no language forbidding electric fences, chicken wire, pallet, or barbed wire. Many Ohio townships do forbid these types of fences. Staff did state that there is a fence law in the ORC that exempts agriculture from fence zoning regulations. Staff stated that the regulations were not clear on if fence can be in front of a building if the building is behind the required setback.

Mr. Morse made a motion to recommend the text amendment with staff suggestions.

Ms. Ross seconded the motion.

All voted "Aye".

Motion passed.

Perry Township – Text Amendment to Section 300.01, Establishment of Districts and the addition of Section 305, Lakefront Planned Mixed-Use District.

Staff stated that the next two cases were combined into one staff report. The first part of the zoning case was the addition of LPM to Section 300.01, the list of the districts allowed for in the Perry Township Zoning Resolution. The second part of the case is a new zoning district named Lake Planned Mixed-Use District or LPM, which is new Section 305.

Staff stated there was full summary of the zoning text amendment except recommendations. Staff was unable to prepare recommendations for the Land Use and Zoning mail out. The recommendations are part of the handout tonight.

Staff stated that LPM PUD was different from the other two PUD districts, SFPUD and MDPUD, because it allowed for commercial uses. SFPUD and MDPUD are strictly residential districts. The density of LPM is in the middle of the other two districts. LPM density is 5 units per acre, SFPUD is 4 units per acre and MDPUD is 6 units per acre. The LPM allows for single-family homes, attached single family (townhouses) and multi-family units and limited commercial uses. The regulations have a minimum amount of units that have to be single family and a maximum amount of units that could be multi-family.

Staff stated that this was a planned unit development district and Perry Township has a planned unit development section, which is Section 304. This district also references the approval process in that section. Staff felt that this district would be better added to Section 304 instead of being a new section.

Staff was concerned that the amount of land and length of Lake Erie shoreline required for LPM would be determined. SFPUD only requires 10 acres of land to ask for the rezoning, and MDPUD development could be between 5 to 25 acres. The LPM requires 150 acres. The only incentive for using the LPM is the commercial uses. Staff recommended that a lower acreage be considered.

Staff was concerned with the fact that child and adult day cares were permitted conditional uses in SFPUD and they were not allowed in LPM. Also, places of worship were conditional uses in LPM, but not allowed in SFPUD. Perry Township should remain consistent and have these uses be the same in each district. Staff was really concerned with the places of worship because of the Religious Land Use and Institutionalized Persons Act (RLUIPA).

The amount of land required for open space seemed low and is lower than what is required by the other PUD districts. Perry Township should consider increasing the amount of open space.

Staff was also concerned with the 30 foot setback off a public right-of-way. This would allow for a setback of 30 feet on Blackmore or Clark. If this was a SFPUD or MDPUD, they would be required to have a 50 foot setback off Blackmore or Clark.

There may be an unfunded mandate placed on the developer through these regulations. Requiring the developer to provide the lake front erosion makes sense on paper, but it may burden the developer. Staff suggests that Perry Township use a setback off the ODNR Coastal Erosion Area. The setback would be placed on areas experiencing coastal erosion and not areas where erosion is not happening. If the developer decides to install coastal erosion protection, Perry Township could eliminate the setback.

The Committee asked about the proposed 25 foot setback from edge of pavement. Staff stated that they were concerned about having a varying setback if the roads were 18 feet or 20 feet or 22 feet. The homes would be in different locations. It was pointed out that the roads are required to be a

minimum of 22 feet. 22 feet is the minimum width of a public road, so staff was not as concerned after learning this point.

Members of the Committee brought up an issue with the Fire Chief approving the fire hydrants. They were questioning if the Fire District saw the regulations because the regulations called for 2 ½ inch connection of the fire hydrants. Staff suggested that regulation could be replaced with a sentence stating the Fire Chief and Sanitary Engineer would approve hydrant type and spacing. This way if the Fire District changes to 4 inch connector, they would not need to change these regulations.

The Committee also asked if the Fire District was okay with 45 foot maximum height. Staff stated that they did not write these regulations, but if they had, they would have spoken to the Fire District. Staff hopes that Perry Township took that step. There are ways to make a building safe above thirty-five feet. This could include fire doors and sprinklers, etc. The designers would have to go above the standards if the building is above 35 feet.

Ms. Ross made a motion that Perry Township accept the text amendment with staff recommendations except the building setback from the centerline recommendation and with the addition of language of Fire District and Sanitary Engineer to approve the hydrant types.

Mr. Kenyon seconded the motion.

All vote "yes"

Motion passed.

Perry Township – Text Amendment to Sections 100.7, 301.02, 302.02, 406.01, and 409.06.

Staff stated that the changes presented in this text amendment are housekeeping items of fixing misspellings and wrong references. The only issue that was of concern was the fact that Perry Township did not list the section was being amended in the regards to satellite dishes

Mr. Morse made a motion to recommend the text changes with staff's suggestions.

Mr. Terriaco seconded the motion.

All voted "yes".

Motion passed.

Painesville Township – Text Amendment to Section 11.07, Requiring a Zoning Certificate

This change would require a zoning certificate for parking lot construction or reconstruction. Considering that the zoning resolution requires parking lots to adhere to setbacks and buffers, it makes sense that a zoning permit should be required.

Staff recommends approval.

Mr. Welch made a motion to recommend the text change.

Ms. Diak seconded the motion.

All voted "yes".

Motion passed.

Painesville Township – Text Amendment to Section 28.05(A), Signs for Commercial Districts

Painesville Township would like to allow political signs in the commercial districts. The way the text amendment was submitted, all signs in a residential district would not be allowed in the commercial district. Staff recommends only striking out the words: “Except political signs”.

Ms. Aven made a motion to recommend the text changes with staff’s suggestions.

Mr. Welch seconded the motion.

All voted “yes”.

Motion passed.

Painesville Township – Text Amendment to Section 16.03(F)(2), 16.03(G)(3) and 32.11(B)

Staff stated that they did not correctly interpret the last Painesville Township zoning text amendment. They thought Painesville Township was setting a maximum height for accessory buildings and setbacks. That was not case. Staff revised the staff report and recommendations after conferring with Painesville Township. Those are in tonight’s handout.

Painesville Township is adding language reducing the sideline setback for accessory buildings less than 200 square feet and under 12 feet in height in R-3. They are also adding a rearline setback of three feet for all accessory structures in R-3. They are also doing the same for FPUD.

Staff’s concerns are that Section 32.11 is maximum building height in FPUD and adding language for setback is not appropriate. The Township is also referencing accessory structure standards for R-1 in the FPUD. R-1 lots are bigger than FPUD lots; minimum width of 75 feet for R-1, 60 feet for FPUD. Referencing R-1 standards may create issues in the future.

Staff recommends that language shown to be added to 32.11 should be added to 32.10, Supplemental Regulations, instead. They also suggest that the township determine appropriate standards for accessory structures in FPUD instead of referencing R-1 standards.

Mr. Welch made a motion to recommend the text changes with staff’s suggestions.

Ms. Diak seconded the motion.

All voted “yes”.

Motion passed.

Mr. Radachy stated that was the end of the Committee business.

Mr. Terriaco asked for any new business.

Staff stated that the night cleaning staff was reassigned to other buildings. We would like the Committee to come in through the Planning Commission door instead of the rear door because it is easier for us to control access.

Mr. Terriaco asked for old business. There was none.

Mr. Terriaco asked for any comments from the public. No comments were made.

Mr. Welch made a motion to adjourn.

Mr. Terriaco seconded the motion.

All voted “Aye”. Motion passed. The meeting adjourned at 7:20 PM